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ABSTRACT

This student guide is intended to assist persons employed as supervisors in understanding the legal aspects of supervision. Discussed in the first four sections are the following topics: the nature of the law (criminal and civil law, why people obey the law, and the law and supervisors); health and safety at work (safety in the workplace, ways of encouraging safety, consequences of violating the law, and what the law can expect); employment contracts (spoken and written contracts, rights and obligations, changes in employment contracts, and breach of contract); and dismissal (circumstances for dismissal, dismissal procedures, and constructive dismissals). Each of these sections contains an introduction, sections of instructional text that are interspersed with reinforcing learning activities, and a section summary. The fifth part of the guide includes a series of performance checks (an end check, a tutor check, and a work-based project). Concluding the guide is a unit review that reviews the objectives addressed in the guide, describes related extension courses, and lists recommended reference materials. (MN)

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An Open Tech Project

SUPERVISING
INDUSTRIAL RELATIONS

88: Supervising and the Law

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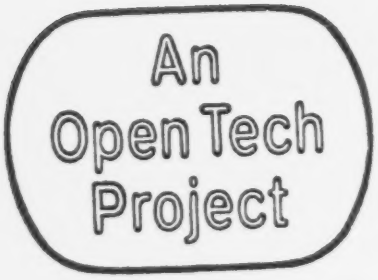
88: SUPERVISING AND THE LAW

Mathew S McCall



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Mathew S McCall
Supervising & the Law (Number 88 in the CHOICE SERIES of learning units)

Series Editor: Harry V Pardue
Northern Regional Management Centre.

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WORKING GUIDE TO THIS UNIT IN YOUR DEVELOPMENT PROGRAMME

This Unit is now your personal property - it's not for handing back to your training officer or to a tutor. It is your working book.

The Contents will increase in value to you each time you write on one of its pages. This is a working text for your personal notes - without notes its value is limited.

Qualifications forget about certificates and diplomas - you don't need them for this programme. What you do need is the wish:-

* to do your job better
* for personal development

Your study time is really up to you - we guess you will need about 8 hours in total. But it's your time - spend as long as you like.

How am I doing? you can judge for yourself by checking out how well you cope with the tasks we call Activities and Self Checks which occur throughout the unit. You can also get the Tutor Check and/or the Work Based Project to your tutor for an unbiased view of your progress.

Work Pace it's really up to you and depends on your interest. However, if you do well on the Activities and Self Checks, you could afford to speed up a little. Of course, if you don't do as well as you expect then you could slow down a little or flick back into the unit for a quick review of the more difficult ideas.

When in doubt - ask or seek help from:

* your family and friends
* colleagues at work
* your company training staff
* other open learners
* your tutor, by phone, by a visit to your support centre or by dropping your tutor a line through the post.

Don't worry if what you learn doesn't seem to be of use to you now, remember that times change - it may be useful one day. Anyway, just knowing more improves personal confidence.

So now make a start:-

88: SUPERVISING AND THE LAW by Mathew S McCall

ABOUT THIS UNIT

As a supervisor, your knowledge of the law needs to be such that it ensures that you and the members of your workteam are working within the law.

In addition, as a supervisor, you can be called upon to give advice to your workteam members on certain aspects of the law which affect them in their jobs.

Your involvement with the law however is not limited to your simply having to respond to the demands of your section. In undertaking your job you can be making decisions and carrying out duties that in themselves can have a direct effect upon the company from a legal standpoint.

IN THIS UNIT WE WILL

* consider the meaning of law
* appreciate how the law affects people at work
* identify the ways in which the supervisor is involved with the law at work

AUDIO TAPE Side 1

Before you continue through the unit, you should now listen to Side 1 of the audio tape that accompanies this unit. You will find it useful if you refer to the unit objectives shown below whilst you listen to the tape. You may wish to make the objectives clearer to yourself by making a note or two on the page as you listen.

OBJECTIVES

When you have completed this unit you will be BETTER able to:

* **understand what laws are, and how they can be classified into civil and criminal laws**
* **appreciate the significance to a supervisor of the laws on**

  health and safety at work

  contracts of employment

  dismissal

PART A THE NATURE OF LAW

1 Introduction

Throughout our lives, we are subjected to all sorts of rules that we should follow. In our homes, there may be rules about not using certain language or rules about how tidy things should be. At work, there are rules laid down by the company about being late or using the firm's machinery for our own purposes in the firm's time. But over and above all the rules that are set down by ourselves for use at home, or by our employers for use at work, there are a great many rules that are laid down by society that we must also follow.

The question that we can ask ourselves is why have such rules?

ACTIVITY 1
Time guide
1 min

Can you fill in the missing word?

Living in a society without rules would be living in a society without

_____.

I would have said "order". Perhaps you put this or a similar word such as "discipline" or "agreement".

This then is a very important point - having rules makes for order in society.

In the home having rules about not using bad language can prevent people being offended and therefore they are less likely to lose their tempers.

In the workplace having rules about lateness means that work processes can run more smoothly because people are not missing.

In our society having rules about what we can and cannot do helps to ensure that we can rely upon others to behave in a certain way. But the rules laid down by society have a very wide impact in that they extend to our homes, and to our work.

In this section we will consider

* what the rules laid down by society are called
* why most people follow the rules laid down by society
* show how some of the rules laid down by society affect the supervisor at work

Rules laid down by society are called laws. Although there are lots of laws we can group them together under two headings

* criminal

* civil

Let's look at each in detail.

2 Criminal Law

Criminal laws are laws that we must all follow, and if we are caught disobeying them, by the police for example we can be prosecuted. Criminal laws are said to be those laws which are laid down for the protection of people within society - like laws about not stealing things from someone.

ACTIVITY 2
Time guide
2 mins

Jot down FOUR examples of laws that you think are criminal eg laws about stealing

* _____
* _____
* _____
* _____

Here are some examples of criminal laws. You may well have included some of these on your list.

* laws about assault

* laws about stealing

* laws about murder

* laws about rape

* laws about dangerous driving

* laws about health and safety at work - such as it being a criminal offence to use a machine without a guard when the law says that it must have one.

3 Civil law

These are those laws which are not enforced by the police but where the individuals themselves, who have been wronged in some way, decide privately whether or not to use the law for assistance - like when someone enters into an agreement with someone that they will perform some work for them and it turns out that they have not done all that they agreed to do. Here the civil law of contract can help but only if the person who had been wronged decided to use it. They may just decide to forget about it.

Here are some examples of laws that we can call civil laws.

* laws about the buying and selling of goods

* laws about the buying and selling of houses

* laws about our rights at work - such as what we are entitled to from our employer

* laws about our obligations at work - such as what an employer can expect from us

So if people break criminal laws they can be prosecuted by the police in a court of law. If people fail to follow civil laws they may be taken to court by the people they have wronged.

ACTIVITY 3
Time guide
6 mins

Look at each of the incidents below and decide whether or not it is under criminal law, for which a person can be prosecuted, or is a civil matter for the individuals themselves to sort out. Write your answer in the space provided.

1 Mr Jones's contract of employment states that he is to give his employer one week's notice if he wishes to leave his employment. He doesn't give any notice.

_____

2 Mrs Green has decided that she does not like wearing her safety clothing provided by her employer as she thinks she can work more quickly without it, even though her supervisor is constantly telling her to wear the clothing. Because she has failed to wear her protective clothing Mrs Green is injured.

_____

3 Ms White received a letter of dismissal from her employer. She decided to try and persuade her employer to change his mind by coming into work to see him. She was told that he was not willing to talk to her and that she should leave the premises at once. On hearing this, Ms White walked into her employer's office and hit him in the face.

_____

4 Mrs Jones has been discovered by her supervisor concealing the firm's property in her handbag and walking out of work with the property.

_____

5

1 Civil Law

This is a matter for the individuals themselves to sort out. What has happened here is that an employee has broken an agreement under his contract of employment, and it is really up to the employer whether or not anything is done about it - such as taking the employee to court to sue him for damages.

2 Criminal Law

Here the employee concerned can be prosecuted for having failed to wear the health and safety clothing provided. It may seem a little harsh that she could be prosecuted after having been injured but the fact is that she has still broken the criminal law.

3 Criminal Law

Here the employee concerned can be prosecuted for assault.

4 Criminal Law

Here the employee concerned can be prosecuted for theft of the firm's property.

So, when we think of the law we need to think of two different kinds of law:

* criminal

* civil

4 Why People Obey the Law

Although we have just been looking at some of the ways in which people have failed to follow legal rules, the great majority of people do follow them. But why?

Here are two possible reasons.

* when we are young we are taught right from wrong, and our parents or guardians give us instruction with the rules of our society constantly in mind.

* people are afraid of what might happen to them if they do not act within the law.

Being afraid of the consequences that might arise as a result of being shown to have failed to comply with legal rules is a very real reason for following them.

ACTIVITY 4
Time guide
3 mins

Think about the consequences that you consider may occur when a person has failed to have regard to the law. Jot down three possible consequences of breaking the law.

* _____

* _____

* _____

I should think that we can agree that the first consequence that springs to mind is being sent to prison. Courts may impose other punishments such as fines or damages to be paid to the person wronged. But in addition to these there are other consequences that people may have to live with such as:

* they may lose their jobs

* they may lose their business contacts

* they may find that people avoid them

So people comply with the law because:

* they have been encouraged to do so from childhood

* they are afraid of the consequences of not doing so.

But even so there are still those people who do not comply with the law.

ACTIVITY 5
Time guide
2 mins

Write down one reason why you think that people may decide not to comply with legal rules.

* _____

_____

Here are my suggestions why some people may fail to comply with legal rules

* they may just not care about the consequences

* they may think that they are going to get away with it

* they may not know that there are consequences for so doing

So, for instance if we take a case from criminal law somebody may have a plan for what he thinks is a fool-proof robbery. He is sure he can get away with it, and there is so much money to be made that he feels the possible gain outweighs any consequences - to himself or anybody else.

Notice the third item on my list - that they may not know there are consequences - ignorance of the law is no defence.

5 The Law and the Supervisor

It would be very difficult indeed for us to consider all those legal rules that concern us at work - because we just haven't got the time. So, what we can do is to have a look at an important selection taken from both civil and criminal law.

Here are the laws we're going to be looking at:

REFERENCE 1 page 68 — Criminal Law - Health and Safety at Work

REFERENCE 2 page 68 — Civil Law - Contracts of Employment
Dismissal

SELF CHECK 1
Time guide 2 mins

Respond to the statement that follow by writing TRUE or FALSE in the space provided.

(1) Criminal laws are those laws that are enforced by the police.

_____

(2) When someone breaks the law they may be doing so because they were not taught right from wrong as a child.

_____

(3) If a person breaks the law because they simply didn't know that the law existed then this would be a good defence.

_____

(4) Once a person has been responsible for failing to comply with the civil law they will then automatically be taken to court by the person they have wronged.

_____

The answers to this self check are here in the following words, so you'll need to check out your answers carefully. 1) The police are responsible for making sure that people comply with those rules that are laid down by the criminal law so this statement is true; 2) This statement is true. How we behave when we are older depends to a great extent upon what we are taught to believe. If we are not shown from an early age that it is wrong to break the law then we may not ourselves consider it to be so; 3) It doesn't matter that we didn't know that what we were doing was wrong. The fact is that it was wrong. It is easy to understand why this should be so, since it would be a very easy matter indeed for someone to simply say that they didn't know that what they were doing was wrong, so this statement is false; 4) There is absolutely nothing automatic about it, so this statement is false. The person who has been wronged under civil law has the right to decide whether to go to court or not. They can if they so wish just forget about what the person did.

6. Summary

Laws are the rules laid down by society to ensure order.

Criminal laws: laid down for the protection of people in our society. Everybody must follow criminal laws, if not, we are liable to be prosecuted.

Civil laws: laid down to assist people who have been wronged. If we fail to follow civil laws we may be taken to court by the people we have wronged.

Most people obey the law because they have been brought up to do so and fear the consequences of not acting within the law.

Supervisors may be affected by a number of laws.

Among the most important are laws concerning:

Health and Safety at Work
Contracts of Employment
Dismissal.

PART B HEALTH AND SAFETY AT WORK

1 Introduction

Let's start by having a look at the law on health and safety at work.

As a supervisor, you are an employee and as such have certain responsibilities as far as your own and other people's health and safety are concerned. But because you are a supervisor much more is expected of you than is expected of the members of your workteam.

The law on health and safety at work is largely contained within the Health and Safety at Work Act 1974. But what does this Act say about an employee's responsibilities as far as health and safety at work is concerned?

ACTIVITY 6
Time guide
1 min

Can you fill in the missing word under the Health and Safety at Work Act?

You must take reasonable _____ not only of your own health and safety but of the health and safety of others.

I would have completed that sentence with the word 'care'. You must take reasonable care of your own and other people's health and safety as must the members of your section have regard to their own and other people's health and safety.

In this section we will look at:

* the ways in which the members of your section may be failing to have regard to their own and other people's health and safety
* what can be done to try and ensure that the members of your section have regard to their own and other people's health and safety
* the health and safety responsibilities of a supervisor
* how a supervisor can be more effective in carrying out those responsibilities
* what the legal consequences are for failing to comply with the law on health and safety at work

2 Safety in your workplace

ACTIVITY 7
Time guide
2 mins

Jot down one example as to how you think members of your section may fail to take reasonable care of their own health and safety.

* _____

_____

_____

Although I don't know what jobs the members of your section are doing, it is possible to give some quite general suggestions as to how the members of your section may fail to have regard to their own health and safety:

* failing to wear proper safety equipment

* failing to take proper health and safety precautions - such as smoking in a non-smoking area

* misuse of or interference with anything provided by the employer for the purposes of ensuring health and safety at work

ACTIVITY 8
Time guide
3 mins

Think about your own place of work and jot down two examples where you think any member of your workteam could interfere with or misuse anything provided for their own or other people's health and safety.

* _____

_____

* _____

_____

Although I don't know what jobs the members of your workteam are doing here are some common ways in which people may interfere with or misuse things provided for their own or other people's health and safety.

* emptying a fire bucket filled with sand and using it to transport liquids and materials

* removing guards from machines

* taking down notices on health and safety or covering up such notices with other notices of a different kind

* causing fire doors to stay open by placing objects underneath or against the doors

Perhaps we can agree that not all these look like serious offences - it can be a great temptation to prop open a fire door, and even something like removing a guard from a machine could be done not for personal gain but because the person concerned thought it would enable him to do the job he was paid for more easily.

But the consequences of these offences in terms of personal suffering and the consequences in court could be very considerable.

So how far does your responsibility as supervisor extend?

ACTIVITY 9
Time guide
3 mins

List the people for whose health and safety you have a responsibility.

* _____

_____

* _____

_____

It is possible that your list contains some if not all of the people in my list.

* other employees

* members of the public - such as visitors

* self employed people - that is people who come on to an employer's premises to do a job of some kind

So, your responsibilities include more than just yourself and your workteam. Your employer is responsible for the health and safety of everybody on the premises at all times. So, as supervisor you're responsible for whoever comes into your workplace.

What is involved, then, in taking reasonable care of the health and safety of others?

ACTIVITY 10
Time guide
3 mins

Jot down one example of how you think you can exercise your duty to take reasonable care of the health and safety of others at work.

* _____

_____

_____

Although I don't know what your job is, these suggestions will probably apply whatever you do:

* warning work team members or members of the public that they are in some danger - such as that a walkway is slippery

* taking proper safety precautions and making sure that others do too

* preventing horseplay or practical jokes

So, you and the members of your section should have regard to your own and other people's health and safety. But not everyone will, so you have to make efforts to persuade them.

ACTIVITY 11
Time guide
4 mins

Jot down two ways in which you think the members of your section could be made to have regard to their own and other people's health and safety.

* _____

_____

* _____

_____

It isn't easy to persuade people to be safety-conscious but here are some suggestions as to how the members of your section could be made to have regard to their own and other people's health and safety.

* make sure they attend regular health and safety training sessions

* make sure that they are constantly reminded of the need to have regard to their own and other people's health and safety - like making sure that you point out any possible hazards to them

* make sure that those people who break the company's rules on health and safety are dealt with

How to deal with someone who breaks the company's rules on health and safety is a difficult problem. But it is one that needs to be solved since people should not be allowed to get away with breaking company rules on health and safety at work.

ACTIVITY 12
Time guide
3 mins

Jot down two ways in which you think a member of your section could be dealt with for breaking the company's rules on health and safety at work.

* _____

* _____

I don't know what your company's policy is when it comes to dealing with people who break the company rules on health and safety at work but here are a number of things that they could do:

* transfer them to another department

* give them a verbal warning about their conduct

* give them a written warning about their conduct if it persists

* dismiss them

How the company deals with someone who breaks the company's rules on health and safety really depends upon:

* how frequently it has happened and

* how serious the case happens to be

The items on this list give us an outline of a company's DISCIPLINARY ACTION.

And this may well have to be taken for a serious or recurrent offence.

3 Encouragement

But rather than having to fall back on disciplinary action, it's preferable to encourage people to take an active interest in health and safety.

ACTIVITY 13
Time guide
3 mins

Jot down two ways in which you think the members of your workteam could be encouraged to become interested in health and safety.

* _____

_____

* _____

_____

Here are some suggestions as to how the members of your workteam could be encouraged to become interested in health and safety at work:

* making sure that they have an opportunity to express their opinions on what needs to be done as far as health and safety at work is concerned - such as having a suggestion box on health and safety

* making sure that if they have any suggestions on how to improve health and safety at work it is taken seriously - such as letting them know that suitable suggestions which have been made in the past have been acted upon

* having regular health and safety training

Perhaps we should spend a little time looking at training since this is probably the most effective way of encouraging people to be health and safety conscious.

ACTIVITY 14
Time guide
2 mins

Suppose your company is aiming to have an accident-free year next year and is running half-day sessions on health and safety for every single member of the company for which you are given time off work.

If you reach the target of an accident-free year then the company is going to give everybody an extra day's holiday.

Jot down why you are likely to feel encouraged about the company's attitude to health and safety.

* _____

_____

* The company obviously takes health and safety seriously. They are prepared to give time off for training which encourages people to take it seriously.

* The company is offering an incentive in the form of a day's holiday - further proof that they take health and safety seriously.

As a supervisor, you are one of management's representatives on the spot, and as one of management's representatives must do all that you can on their behalf to make sure that the members of your workteam carry out their responsibilities as far as their own and other people's health and safety are concerned. So, you have a very heavy burden placed upon you here.

ACTIVITY 15
Time guide
5 mins

Jot down THREE specific health and safety responsibilities which you have towards your workteam members.

* e.g. make sure they know the company's rules on health and safety

* _____

* _____

* _____

Here are some suggestions as to what a supervisor's health and safety responsibilities are towards their workteam members.

* make sure they are encouraged to take an interest in health and safety

* keep a close watch on them to make sure that they are working safely

* keep a close watch on the working environment to make sure that there is nothing there that can harm them - like harmful fumes

* inspect any machinery being used by them to make sure that it remains safe

* inspect any protective clothing or equipment being used by them to make sure that it remains effective

Being able to do all that you should do, as far as the health and safety of your workteam members are concerned, isn't easy. You really need to know very well what your health and safety responsibilities are.

Here are some suggestions as to how you can find out about them:

* look at the company rule book

* look at safety committee minutes

* look at the company's policy statement on health and safety

* look at any trade union material prepared on the health and safety responsibilities of the supervisor

* keep in touch with the safety officer

Working as closely as you can with the safety officer is probably the best way of finding out what your responsibilities are. Since he is the expert on safety matters he should be able to tell you precisely what they will be.

Even though you find out about these responsibilities, you are still faced with how to encourage your workteam to work safely.

ACTIVITY 16
Time guide
5 mins

Look at this example.

You are supervisor of a manufacturing section which contains some grinding equipment. The company Safety Officer has given you goggles to distribute to your workteam and some statistics of recent accidents involving grinding equipment as a result of which people had suffered facial and eye injuries.

When you first talk about this to your workteam you find that some of them are obviously not very keen on wearing goggles and one of them suggests that full-face visors would be more comfortable and would give better protection.

Make a list of the ways in which you, as supervisor in this section, could encourage your workteam to work safely and wear the goggles.

* _____

_____

_____

If I were the supervisor, I should:

* make sure that I always wore goggles myself standing near the grinding equipment to set a good example to the others

* make sure that the suggestion about full-face visors is passed on to the Safety Officer - if the workteam are sufficiently interested to make helpful suggestions about health and safety, they deserve to be taken seriously

* tell the workteam about the accident statistics and remind them occasionally of the reason for wearing goggles

* make a point of inspecting the workplace to make sure goggles were being used

* let the people who were wearing goggles know that I was pleased they were doing the right thing

Let's look for a moment at one item on that list: inspecting the workplace.

This shouldn't be just a random look round. You should make a detailed list of things to look for. For instance, if you are looking at protective clothing you need to know whether it is in good condition or worn, torn or damaged in any way.

So, supervisors have a lot of responsibility as far as trying to make sure that the members of their workteam remain both healthy and safe. In particular they should show more regard towards, for example, young people or other people who are likely to be inexperienced. But the only way in which supervisors can be good at carrying out their responsibilities is for them to be genuinely interested in health and safety.

ACTIVITY 17
Time guide
2 mins

Respond to each statement by writing TRUE OR FALSE in the space provided

1 Supervisors who join safety representatives when they are carrying out their inspections are genuinely interested in health and safety.

_____

2 Supervisors who only attend health and safety courses when they are 'forced' into them by their employer are not genuinely interested in health and safety.

_____

3 Supervisors who only carry out their health and safety responsibilities when they feel like it can still be genuinely interested in health and safety.

_____

---

1 To join a safety representative in a health and safety inspection shows that a supervisor is interested in health and safety since this affords an opportunity to get someone else's opinion, so this statement is true.

2 This statement is true. If a supervisor has to be forced into attending a course on health and safety it shows a lack of interest. Although pressure of work can make it difficult to find the time, maintaining health and safety must be a high priority.

3 If supervisors were really interested in health and safety they would carry out all their responsibilities on health and safety as regularly as they could, so this statement is false.

4 What happens if the law is broken

But what happens if somebody is caught breaking the law on health and safety at work by not having regard to their own or other people's health and safety as is required of them by the Health and Safety at Work Act 1974?

ACTIVITY 18
Time guide
1 min

Can you fill in the missing word?

When a factory inspector discovers that someone has broken the law on health and safety at work that person can be _____ by the inspector in a court of law.

I would complete this sentence with the word 'prosecuted'. Anyone who fails to comply with the law on health and safety of work can be prosecuted.

But what may the court do to a person who is found to have broken the law on health and safety at work?

ACTIVITY 19
Time guide
2 mins

Can you filling in the missing words?

When a person is taken to court by an inspector and found guilty of breaking the law on health and safety at work, the court can either insist that that person pay a _____ and or send that person to _____.

I hope you have come up with the words 'fine' and 'prison'. The courts have the power to fine and imprison people for failing to comply with the Health and Safety at Work Act.

But why do people still break the law on health and safety when they can be punished for doing so?

As a supervisor, you can be under a lot of pressure at work from many directions and it's all too easy for health and safety to take a backseat.

ACTIVITY 20
Time guide
2 mins

Note ONE of the main pressures on you which may lead to a breach of the Law on Health and Safety. I have put one in as a starter:

eg You may have too many people to supervise

* _____

Typical pressures on supervisors are:

* the supervisors may have too many people to supervise

* the supervisor may be under pressure to spend time on things other than health and safety - like production targets

* the supervisor may just not be capable of being responsible for other people's health and safety such as where an employer selects the wrong person for the job in the first place and doesn't provide any training.

5 How much can the law expect

You may be relieved to know that the Health and Safety of Work Act tells us that people will not be held responsible if they have done all that it was reasonably practicable for them to do.

'Reasonably practicable' means that you have made all reasonable efforts but you can only go so far. There may be reasons outside your control for failing to do enough.

But what kinds of reasons do you suppose are good reasons for failing to carry out health and safety responsibilities?

ACTIVITY 21
Time guide
5 mins

Respond to each statement by writing TRUE OR FALSE in the space provided.

1 Supervisors who can show that they have too many people to supervise would have a good reason for not carrying out all of their responsibilities as far as health and safety at work is concerned.

_____

2 Supervisors who can show that they are under a lot of pressure to spend time on things other than health and safety have a good excuse for not carrying out all of their responsibilities as far as health and safety at work is concerned.

_____

3 Supervisors who can show that they didn't have the necessary experience for the job as a supervisor would not have a good excuse for failing to carry out all of their responsibilities as far as health and safety at work it concerned.

_____

---

1 When supervisors have many people to supervise it is bound to create problems. It is difficult enough to look after the health and safety interests of a reasonable number of workteam members. An unreasonably large number might make it impossible, so this statement is true.

2 This statement is true. When supervisors are under a lot of pressure to spend time on things other than health and safety they are bound not to be able to do their health and safety responsibilities justice. When this happens it is really the fault of the employer, who should make sure that supervisors can spend enough time on matters of health and safety.

3 If supervisors are to be any good at looking after the health and safety interests of the members of their workteam they need to be in a position to know how to do it and one way of achieving this is to make sure that they have the necessary experience. When this doesn't happen it is really the fault of the employer, who should make sure that a supervisor has enough experience before being offered the job, so this statement is false.

EXTENSION 1
page 65

SELF CHECK 2
Time guide
4 mins

Respond by completing each sentence with a suitable word or words.

(1) Supervisors are responsible not only for their own health and safety but for the health and safety of fellow employees and members of the _____.

(2) Of all the ways of attempting to ensure that people are safety conscious the most effective is regular health and safety _____.

(3) When a person has broken the company rules on health and safety the company may give them a verbal _____.

(4) In order to keep a proper check on the suitability of protective clothing and other safety equipment, the supervisor must carry out regular health and safety _____.

(5) Those people who enforce the law on health and safety at work are called factory _____.

The answers to this self check are here in the following words, so you'll need to check out your answers carefully. 1) Public Members of the public must be kept healthy and safe when they are on company premises. The law attempts to ensure that they are when it makes employees and employers alike responsible for their health and safety; 2) Training By giving people regular health and safety training they are shown just how to be able to undertake their jobs in a healthy and safe way. Such training also demonstrates to them just how important health and safety is to the company; 3) warning A verbal warning would be given in a situation where the person concerned had committed a minor breach of company rules on health and safety; 4) inspection The most effective way of checking such equipment is to carry out regular inspections. This should be done in a very detailed and systematic way by preparing a detailed list of things to look for in advance; 5) inspectors In order to make sure that the law on health and safety is being followed inspectors carry out inspection of company premises to make sure that it is.

6. Summary

The law on health and safety at work is largely contained in the Health and Safety at Work Act 1974.

This says you must take reasonable care, not only of your own health and safety, but of the health and safety of others.

This includes your workteam, other colleagues, members of the public and self-employed people working in your workplace.

Reasonable care includes

* making sure safety procedures are carried out properly
* making sure equipment is used safely
* training in health and safety
* encouraging a responsible attitude to health and safety in your workteam.

People who break the law on health and safety can be prosecuted by a factory inspector and, if found guilty, finded or imprisoned.

But the law only expects us to do what is 'reasonably practicable' and a court may accept that there are reasons outside your control for the law being broken. Each case would be considered individually, on its merits.

PART C CONTRACTS OF EMPLOYMENT

1 Introduction

When you are offered a job as a supervisor it is offered on the condition that you will accept certain obligations - like agreeing to work overtime when requested to do so. With the obligations, of course, come the benefits - such as the right to a supervisor's wage.

But what is to stop anyone from going back on their word - such as an employer who pays less than was agreed, or a supervisor who refuses to work overtime even though it was agreed to?

The answer is a contract of employment.

In this section we will consider

* what contracts of employment are
* whether contracts of employment need to be in writing
* whether or not your employer has to make sure that both you and the members of your section have some way of knowing what your rights and obligations are - like providing you all with a contract of your own.
* whether it is possible for you and the members of your section to have responsibilities towards your employer, and your employer towards you all without being specially mentioned in your contracts of employment.
* what can cause a contract of employment to change and what must be done when this happens
* what the legal consequences are for failing to carry out what was meant to be carried out under a contract of employment

2 Contracts of Employment

Contracts of employment are nothing more than a collection of agreements made between people who have a legal obligation to carry them out. But what kinds of agreements are we talking about?

* agreements about pay
* agreements about holiday entitlements
* agreements about working hours

These are basic things that both you as a supervisor and the members of your section will have agreed about with your employer and are common to all people's contracts of employment.

But not all our contracts of employment contain the same things. It really depends upon what our employer feels that it is necessary to include in our contracts such as

* that everyone can be searched by security staff

* that all supervisory staff can be expected to move to another factory should the need ever arise

* that managers and supervisors must not profit from their involvement with the company after they leave the company or must not allow future employers to profit from this involvement

Let us look more closely at this last example of something that may be included in a contract of employment. What this is really trying to stop is the situation where someone leaves to go to work for someone else and gives their new employer information about their old employer's customers or work processes or sets up in business themselves and goes into competition.

But although such clauses in contracts of employment are acceptable under the law, they must be reasonable, and they would not be reasonable if such a restriction

* wasn't called for in the first place or
* went too far as regards how long the restriction should apply for and what the area of the restriction should be.

But what is 'reasonable'?

This is something which a judge has to decide by judging each case on its merits.

ACTIVITY 22
Time guide
3 mins

Respond to the statements that follow by writing reasonable or unreasonable in the space provided

1 A restriction imposed upon a manager within a company that manufactures light bulbs to the effect that the manager is not to work for a competitor within a radius of 60 miles for 20 years.

_____

2 A restriction imposed upon a supervisor that they should not start up business within a radius of five miles of their old employer for a period, of five years because of their previous contact with the employer's customers.

_____

---

1 Unreasonable

It may be that as a manager there was contact with customers, but to restrict a person for as long as twenty years and to expect them to have to find a job sixty miles away from their present home is completely unreasonable.

2 Reasonable

The supervisor has had regular contact with customers and the employer is bound to be concerned that the supervisor will use some of these contacts to try to take away business from their old employer. In fact it does look as if the employer hasn't gone far enough; five miles doesn't seem to be a very great distance away from the supervisor's old employment.

We can see from this that it may be very important to the employer to include in a contract of employment points beyond the basic ones like salary and holiday entitlement.

What an employer includes depends very much upon what he expects from you.

But it isn't just the employer who may gain from a contract of employment. Employees gain too, by knowing exactly what is expected of them.

3 Spoken and Written Contracts

When we think of a contract, we tend to think of some written document which lays down the rights and obligations of both the employers and the employee to which the parties have to attach their signatures. But this is not so:

* Contracts of employment do not have to be in writing. They can be created by two people just agreeing in a conversation what their rights and obligations are to be towards each other. But does it make any difference whether a contract of employment is in writing or not?

The short answer is 'Yes'.

Let's look at this example.

ACTIVITY 23
Time guide
3 mins

At the end of a successful interview with Jason Electronics for the job of production supervisor, Billy Robson is told that it would be a condition of his employment that he should agree that he would not work for a competitor in the same town for a period of two years after leaving Jason's. This agreement is never referred to again.

Four years later, long after he has forgotten about the interview, Billy Robson is offered a more responsible job by New World Electronics Ltd. who have a factory nearby.

When he hands in his notice, Jason Electronics tell him that under his contract of employment he is forbidden to take up such a post and if he does, they will take him to court.

What would have been the advantage to having a written contract in this case?

* _____

_____

_____

Without having written evidence as to what had been agreed, it would be necessary to rely upon someone's word, and this may not always be very reliable. People may just forget what they agreed to, or be confused as to whether something was agreed or not.

So, it is a good thing to have a contract of employment in writing so that people can know with some certainty what their rights and obligations are.

4 Rights and Obligations

4.1 The Employment Protection Consolidation Act 1978

There is no law which says that where contracts of employment are in writing you or the members of your section must receive your own copies. There is a law, however, contained within an act called the Employment Protection Consolidation Act 1978 which says that you and the members of your section must receive a written list of those basic particulars connected with your employment so that at least you have in writing a brief account of certain basic employment details - like how often you all are to be paid.

EXTENSION 2
Page 65

ACTIVITY 24
Time guide
2 mins

List two basic employment details that you think your employer should bring to your attention

* _____

* _____

Here are some of the basic employment details that the law says an employer should provide you with

* the date when your employment started
* how much you will be paid
* how frequently you will be paid
* what your holiday entitlements are
* what the sick pay arrangements are
* how much notice you need to give
* what your job title is
* any disciplinary rules

As a supervisor, your basic employment details are different from those of the members of your section and, under the law, you must be made aware of those differences by your employer not more than one month after they take effect. What this will mean is that where you are offered a job as a supervisor and you accept it, you will need to be provided with a new written list of basic job particulars.

4.2 Rights and obligations that are not contained within the contract

As far as the law on contracts of employment is concerned there are some things that are thought to be so obvious that there is no need to refer to them expressly in a contract of employment itself. They can as far as the law is concerned be implied. In addition to these implied rights and obligations that do not appear in a contract of employment, there are a great many more that do not need to be included because they are guaranteed anyway, by some act of parliament.

Some of these implied obligations of yourself and your workteam are:

* to exercise reasonable skill and care in doing a job

* to take care of an employer's property

* to be loyal to an employer - like refusing to provide a competitor of your employer with useful information

* to be obedient to an employer

Let's look at these implied obligations in turn.

* Reasonable skill and care

What reasonable care and skill actually means will vary from one job to another. But we can identify some general guidelines.

ACTIVITY 25
Time guide
3 mins

During the morning Carol Tills, who supervises three packing lines in a light engineering factory, does several jobs. These include going to see how a new starter whom she trained the previous week, is getting on. Although she was a bit slow to start with, Carol expects that she will be working at an acceptable rate by now.

She has a look at the production forecast for the week and checks the shift reports with the leading hand to make sure that the weekly target looks like being met.

She walks round the shop floor several times on her way to do other jobs. Once she notices that somebody is packing a certain component wrongly so she shows her how it should be done and makes a point of having a look at her progress next time she passes.

Jot down two ways in which you think Carol Tills was exercising reasonable care and skill as a supervisor.

* _____

* _____

These are the points I should single out from this incident though you may have noticed others as well.

* She has instructed a new member of the workteam and followed up that instruction to make sure it was understood.

* She made sure that production targets were being met by the workteam.

* She took care to ensure that the work in her area was being done properly.

I hope we can agree that these points will probably apply to any supervisor's job.

* Taking care of an employer's property

We would probably understand immediately from this that it meant we had to take reasonable care of equipment when we were using it ourselves. But as a supervisor, your responsibilities for the care of your employer's property go further than this.

You have also to make sure that:

* your workteam only use equipment for the right purpose

* your workteam don't do anything which is likely to damage or destroy equipment

* you take appropriate action if you know that equipment needs attention and is likely to be damaged or destroyed by neglect.

* Being loyal

I don't know what your job is but as a supervisor it is likely that you would have more trust placed in you by your employer than would be placed in a member of your workteam. Because of this trust, you may be given more of an opportunity to be disloyal.

ACTIVITY 26
Time guide
2 mins

Jot down one example of how you think somebody may fail to be loyal to their employer.

* _____

_____

_____

Here are some examples of how disloyalty may occur.

* by talking to someone who works for a competitor of your employer about who your employer has contracts with

* by talking to someone who works for a competitor of your employer about a secret process that exists where you work.

* Being obedient

It does seem a little old fashioned to say that both you and the members of your section must be obedient to your employer but what this is really implying is that you are all obliged to obey all reasonable orders. So, when would an order be unreasonable?

An unreasonable order would be one where an employer expects you to

* do anything illegal - such as falsifying some records that must be kept by law

* do anything that is dangerous - such as work on a machine without a guard when it is necessary for it to have one

It isn't very easy however for a person to disobey orders once they have been given even though they may be unreasonable. As a supervisor you must do your best to make sure that you do not give the members of your section orders that are unreasonable.

4.3 The Employer's implied obligations

In the same way as you have implied obligations as an employee, so has the employer. His implied obligations include:

* making sure that you are not driven to leave your employment as a result of being badly treated on purpose. We will say more about this in Part D

* making sure that when a reference is produced it is not misleading.

ACTIVITY 27
Time guide
3 mins

An employer writes two references for employees who have applied to other companies for jobs. Both of them are misleading.

One is a glowing reference and says the person referred to would be an excellent choice for the job. The other is an unfavourable reference and is very grudging in its comments.

What reason of his own do you think the employer might have for writing the two misleading references:

* _____

_____

_____

When a person intends to leave their employment this may be looked upon in two ways, with pleasure, or displeasure. If your employer wants to keep you, you could be provided with a bad reference. If your employer wants to get rid of you, you could be provided with a good reference.

So the obligation not to write misleading references protects the employees and other companies.

Your employer is not under any legal obligation to provide you with a reference however - it's just that it must be accurate.

4.4 Rights and obligations guaranteed by Act of Parliament

From time to time, an Act of Parliament will lay down some new obligations on the part of your employer regarding your own and your workteam member's rights. These rights are called statutory rights. Let us have a look at some of these Statutes.

ACTIVITY 28
Time guide
4 mins

Respond to each question by putting a mark against the ONE answer which you think is the most correct.

1 The Equal Pay Act 1970 gives all employees

(a) the right to equal pay and other conditions

(b) the right to time off with pay for safety representatives

(c) the right not to be victimised for not belonging to a trade union

2 The Sex Discrimination Act 1975 gives all employees

(a) the right not to be victimised for not belonging to a trade union

(b) the right to equal pay and other conditions

(c) the right not to be unfairly discriminated against

3 The Health and Safety at Work Act 1974 gives all those employees who are entitled to ask for it

(a) time off with pay for safety representative work

(b) equal pay and other conditions

4 The Employment Act 1980 gives all employees

(a) the right to equal pay and other conditions

(b) the right not to be unfairly discriminated against

(c) the right not to be victimised for belonging to a trade union

---

Although it is difficult to know what an act says without having the act in front of you the title of the act can give us a clue as to what it is about. On this basis let us look at what my responses would have been to the question what acts concern themselves with what things.

1 (a) The Equal Pay Act 1980 concerns itself among other things with the right of employees to receive equal pay and conditions

2 (c) The Sex Discrimination Act 1975 concerns itself among other things with the right of employees not to be unfairly discriminated against

3 (a) The Health and Safety at Work Act 1974 concerns itself among other things with the right of safety representatives to receive time off with pay

4 (c) The Employment Act 1980 concerns itself among other things with the right of employees not to be victimised for belonging to a trade union

5 Changes in contracts of employment

Certain changes in a contract of employment are sooner or later bound to occur. But what is it that can cause these changes?

* negotiation

* the law

5.1 Negotiation of change

When a person is offered another job which has more responsibility this will most likely amount to a change in that person's rights and obligations.

ACTIVITY 29
Time guide
5 mins

Jot down how you think your contract of employment as a supervisor is any different as far as your rights and obligations are concerned from the contract of the members of your section.

*

I don't know what your contract of employment says exactly, but on the basis of the responsibility which tends to be given to a supervisor certain rights and obligations that tend to naturally follow are:

* a right to more pay

* a right to more holidays

* an obligation to make sure that production targets are being met

* an obligation to make sure that the members of your workteam are properly supervised

Where your employer suggests that a member of you workteam becomes a supervisor it is of course up to that person to decide whether or not they want the job. As far as the law is concerned it can never be imposed upon them against their will.

Although what has been agreed under a contract of employment cannot be changed without there being some new agreement, there may be little choice in the matter.

ACTIVITY 30
Time guide
2 mins

Respond to this statement by writing TRUE or FALSE in the space provided.

A supervisor who has been asked by an employer to take a cut in salary along with the rest of the section in order to save the employer's business, and thereby keep everyone in employment would have very little choice but to accept.

Although the supervisor could ignore the request it would be difficult to do so when faced with such an alternative as this, so this statement is true.

5.2 Change brought about through the law

When an Act of Parliament brings about a change this is not a matter for negotiation.

6 Breach of contract

Where you or your employer fail to carry out what you ought to do under your contract of employment this does not mean that the law has to be involved - this is a civil matter so it could simply be sorted out amongst yourselves.

Where either of you do decide to involve the law you may be entitled to compensation from the other party for the breach of contract that has arisen - provided that it can be shown that the breach did in fact bring about some financial loss.

ACTIVITY 31
Time guide
5 mins

Respond to the case incidents that follow by writing TRUE or FALSE in the space provided.

1 Mrs Jones, a sales supervisor, left fourteen vacuum cleaners belonging to her employer outside her house in a car one night and they were stolen. Her employer was not entitled to compensation from Mrs Jones.

_____

2 Mr Smith, who had been a supervisor in an engineering factory for ten years, had been paid his wages regularly every week for the whole of that time. One pay day the wages arrived but there was £10 short. Mr Smith was informed by his employer that in future he would receive £10 less than had been agreed each week in his pay packet. Mr Smith was entitled to compensation from his employer.

_____

---

1 Here Mrs Jones has been careless and as such failed to exercise one of her contractual duties towards her employer - a duty to exercise reasonable care in doing her job. By doing this, Mrs Jones has caused her employer to lose money on the value of the vacuum cleaners and as such he can seek compensation for the full amount from her, so this statement is false. It may be however that her employer decides to claim the money on his insurance, but having this right wouldn't prevent him from being able to seek compensation from Mrs Jones instead.

2 Here Mr Smith's employer has broken an agreement that was made about how much pay should be received for the work being undertaken. Once an agreement of this type has been made, it cannot be changed unless both parties agree to it. If this does not happen then it will amount to breach of contract just to do it without agreement, so this statement is true.

SELF CHECK 3
Time guide
4 mins

Say whether you think the following statements are TRUE or FALSE.

1 Unless the care of your employer's property is specifically mentioned as one of your responsibilities in your contract of employment, you are not obliged to ensure that it isn't damaged or misused.

TRUE/FALSE

2 You don't gain anything from having a contract of employment since your rights are guaranteed by various Acts of Parliament anyway.

TRUE/FALSE

3 The Employment Protection Consolidation Act says that employees must be given comprehensive details of the terms of their employment in writing.

TRUE/FALSE

4 Contracts of employment can only be changed by negotiation.

TRUE/FALSE

The answers to this self check are here in the following words, so you'll need to check out your answers carefully. 1 Every employee must take care to ensure that employers property is not damaged or abused. This is an implied obligation imposed upon employees - it does not have to be expressly stated in any contract of employment, so this statement is false; 2 Employees gain from having a contract of employment since not only will they then know what to expect of their employers, they will also know what is to be expected of them, so this statement is false; 3 The Employment Protection Consolidation Act only says that employees must be provided with basic employment particulars. Contracts of employment do not have to be in writing, so this statement is false; 4 This statement is false - Contracts of employment can be changed by negotiation, but they can also be changed by statute.

7. Summary

A contract of employment includes:

agreements about basics such as hours of work, holiday entitlement, pay

reasonable restrictions such as the use you can make of experience gained if you leave your present employer.

It can be written or spoken and your employer does not have to give you your own copy.

BUT

The Employment Consolidation Act 1978 says you must be able to see a written list of basic particulars concerning your employment.

As well as what is included in a contract of employment you also have implied obligations.

* Employees must:

use reasonable care and skill

take reasonable care of the employer's property

be loyal and obedient

* Employers must:

only ask you to do things which are lawful

ensure you are not driven to leave by deliberately bad treatment

provide a fair reference if asked.

We also have some statutory rights ensured by Acts of Parliament including:

The Equal Pay Act 1970
Sex Discrimination Act 1975
Health and Safety at Work Act 1974
Employment Act 1980.

If you or your employer fail to honour the contract of employment, under civil law, either can sue for compensation provided financial loss has been suffered.

PART D DISMISSAL

Supervisors and the law on dismissal

1 Introduction

There are many reasons why people decide to leave their jobs. It may be that they are offered a better job somewhere else, or they just decide to have a change and work for someone else without being any better off.

Sometimes, it is really out of a person's hands whether or not they stay in the job which they are in. They may have to retire, or they may come to the end of a fixed time for the job itself - like a two year contract. But at least people are prepared for these. What about when a person has to leave a job because they are sacked for doing something wrong, or simply told they are no longer needed? As a supervisor, you may well be involved somewhere along the way when a member of your workteam is dismissed. It may be you who

* brings to the attention of management that a member of your workteam has done something wrong

* brings to the attention of a member of your workteam that they will be dismissed if they continue to act in the way that they have been acting.

Sometimes, however, a person who has been dismissed may argue that they should never have been dismissed at all, and that what they did didn't really justify their being dismissed.

In this section we will look at

* those circumstances in which a person can be dismissed

* when a dismissal may be unfair

* how an unfair dismissal may arise without there actually being a dismissal - such as where an employee is forced to leave

* what the legal consequences are for dismissing someone unfairly

2 The circumstances for dismissal

EXTENSION 3
Page 66

The law provides us with a number of circumstances in which a member of your section could be dismissed. These are also the subject of a useful video "Handling Redundancy and Dismissals".

These circumstances can be concerned with a member of your section:

* being incapable

* being unable to produce the qualifications they said they had

* being no longer needed - that is, where they have been made redundant

* being guilty of misconduct

2.1 Capability

Under the law it would be possible to dismiss a member of your section on the grounds that they are not capable of doing the job they were contracted to do.

ACTIVITY 32
Time guide
2 mins

Jot down an example of when you think a member of your section would be incapable of doing their job.

* _____

_____

_____

_____

I don't know what jobs the members of your section do, but we can give some general examples as to how people may be incapable.

* when they are spending too much time on a job

* when they keep making mistakes

* when they keep avoiding doing certain types of job

As a supervisor, it will be your job to see that the members of your section are capable of doing their jobs, and it will be your responsibility to inform management that they are no longer up to standard. This is easier said than done however, especially if the person concerned is a good friend who has just got too old for the job. But if you let him continue in the way that he is, he may do himself or a member of his workteam some harm. Indeed, it may be that management will not dismiss him at all, they may just decide to give him a lighter or less demanding job.

But why is it that a member of your section may be incapable of doing their job?

_____

ACTIVITY 33
Time guide
2 mins

Can you fill in the missing words?

A person may be incapable of doing their job because they are in poor _____ or they just do not have the necessary _____ to be able to do it.

_____

I hope you have come up with the words ' health' and 'skill' or words which mean something similar. Both would be bound to prevent a person from doing the job that they were contracted to do.

2.2 Qualifications

If a member of your section was given a job partly on the basis of the qualifications they had put down on their application form, could they be dismissed if it was discovered that they didn't have the qualifications at all?

ACTIVITY 34
Time guide
2 mins

Respond to this statement by writing TRUE or FALSE in the space provided.

If your employer finds out that a member of your workteam doesn't have the qualifications that they say they have, it would be possible to dismiss that person.

This statement is true. When your employer enters into a contract of employment with a member of your section they do so on the basis that all that was said about qualifications was true.

2.3 Redundancy

It may seem out of place to be looking at redundancy in a section on dismissal, in that when people think about redundancy they tend to think about it in terms of a person having simply lost their job not that they were dismissed from their job.

But when people are made redundant, in law, they are regarded as having been dismissed by reason of redundancy in much the same way as they would be if they were dismissed by reason of misconduct.

ACTIVITY 35
Time guide
2 mins

Write down what you think it is that happens to the employer's business that can cause them to make people redundant.

*

An employer's business may have

* declined or

* ceased altogether

When the business has declined it may be necessary for the employer to get rid of some employees by cutting the workforce.

When the business has ceased altogether, or is about to it will be necessary for the employer to make the whole workforce redundant.

2.4 Misconduct

When we are at work, we must conduct ourselves in the way our employer would expect us to. If we do not, then our employers may well be entitled in law to dismiss us. What kind of conduct then is so bad that our employer can dismiss us for it?

ACTIVITY 36
Time guide
2 mins

Jot down three offences that you think may cause a member of your workteam to be dismissed for misconduct eg theft.

* _____

* _____

* _____

I don't know what jobs the members of your section do but we can give some general examples as to the types of conduct that can cause a person to be dismissed like:

* theft

* violence

* drunkenness

* disobedience

* lateness

* insolence and rudeness

As a supervisor, it will be your responsibility to deal with the misconduct of any member of your workteam. How you deal with it will to a large extent depend upon how serious you consider the misconduct to be. In some cases you may feel that it is sufficient to simply have a word with the person concerned and warn them that if their bad behaviour continues that you will be forced to take the matter further - informing your boss for instance.

So just what type of bad behaviour might only justify a member of your workteam being given a talking to without your boss being informed, and which type of bad behaviour may need to be reported at once?

ACTIVITY 37
Time guide
8 mins

Read the four short incidents which follow and in the space provided at the end of each incident write down whether you would

* report the incident

* have a quiet word

1 A member of your workteam is discovered by you stealing something from the pocket of another workteam member when it was hanging up in an unlocked locker-room. This is the second time you have caught this person stealing. On the first occasion you had a quiet word with him.

* _____

2 A member of you workteam informs you that as far as they are concerned you can "get lost " and that they have no intention of doing what you have asked them to do even though what you have asked them to do is part of their job. This has never happened before, and you are very surprised at the response you have received. The other members of your workteam have heard the conversation that has passed between you.

* _____

3 A member of your section has informed you that another person within the section has been late three times within the last week, but that a friend has clocked on for her in her absence.

* _____

4 Two members of your workteam have been discovered by you to be fighting with each other.

* _____

5 A member of your workteam is discovered by you to be sitting in the restroom asleep in a chair after the break period is over. You already know that the person concerned has had some problems at home which have prevented him from sleeping at nights.

* _____

Clearly, how you would handle each of the various problems you have been presented with depends upon your own personal preferences. My responses may well be different to yours, but if they are, at least when you compare them with your own you may be able to see how easy it is for someone else to view a misconduct incident differently.

Incident 1

Report the incident

Here it would be doubtful that the person concerned would stop stealing, having been told once already that on the next occasion it would be reported. It does seem that the only thing to do now would be to report the incident to management.

Incident 2

Have a quiet word

In this case the person concerned has not only refused to do the job that is meant to be done, bad language has also been used.

However, it does look to be out of character for the person concerned, so having a quiet word when they have cooled down about why they have reacted in the way that they have and what the consequences may be if they continue to react in that way may be all that is required to get that person to work normally again.

Incident 3

Report the incident

This is a very serious matter. What the person concerned has done is to defraud the company. In any case, should it ever be discovered that you failed to report the matter, you too would be in serious difficulties.

Incident 4

Report the incident

This is a very serious matter and should be reported at once. There is no way in which fighting at work should be tolerated. To tolerate such behaviour would go some way towards encouraging people to act in that way again.

Incident 5

Have a quiet word

Here the person concerned does seem to have good reason for falling asleep in the restroom and remaining asleep after the break is officially over. A quiet word may be all that is needed. Although if the person concerned cannot sleep at home it is possible that they may fall asleep again at work, so making some suggestions as to how it might be prevented from happening again would be helpful - like taking some time off if possible.

As a supervisor, an employer will rely upon you to make sure that the members of your workteam conduct themselves in a proper manner. And that when you do discover that a member of your workteam has been guilty of misconduct, you will deal with it. In dealing with it, it should be recognised that you ought to be given some discretion, and that in some cases, it ought to be left up to you to decide how to handle it. But that when there has been serious misconduct it will be reported by you immediately in order that the person concerned can be dealt by the employer.

3 Dismissal

In deciding whether or not the dismissal of a member of your section was fair it would be necessary to consider whether or not your employer acted reasonably in dismissing them. What this really means is:

* were they justified in dismissing?

The employer may not be regarded as being justified in dismissing someone if:

* the person concerned is not familiar with the conditions under which dismissal can occur

* the person concerned has not been warned that there is a possibility of dismissal

* the person concerned has not been given a hearing

* the dismissal was based on an unfair decision

* the dismissal was based on a reason considered in law to be inadmissible - such as being dismissed for refusing to join a trade union

3.1 Unfamiliarity with the circumstances under which dismissals can occur

There is a Code of Practice which says that companies should let their employees know the circumstances under which they can be dismissed.

EXTENSION 4
Page 66

As a supervisor you should be familiar with the company rules on dismissal and may have to explain them to your workteam. But is that enough? Companies are expected to have a copy of the company rule book available but then there remains the problem of whether everybody will read it.

Once again we are back to the question of 'reasonableness'.

ACTIVITY 38
Time guide
2 mins

Respond to each statement by writing REASONABLE or UNREASONABLE in the space provided.

1 A company leaves it to employees to make themselves familiar with the rules on dismissal by contacting their supervisor.

_____

2 Reasons for dismissal are mentioned during the company's induction course for new starters and each employee is given a copy of the company rules.

_____

1 This statement is unreasonable. It may well be, that the supervisor is very familiar with the ways in which dismissals can arise, but some of them may be left out when the supervisor is giving an explanation. In any case, not all workteam members will take the opportunity to contact their supervisor about this since they may feel it's not likely to apply to them.

2 Simply having a copy of the company rule book alone may not be enough, because it may be ignored. But to make sure that the rule book is retained for the purpose of having it explained at an induction course is a very reliable way of making sure that a person can become familiar with the ways in which dismissals can arise, so this statement is reasonable.

3.2 Warnings

As well as stating the reasons for dismissal, the company rule book should also make clear what warnings will be given to anybody who breaks the company rules.

The firm's rule book should have something in it about:

* when warnings are to be given for breaking the company rules
* what types of warnings are to be given, and
* how many warnings there should be before dismissal takes place.

ACTIVITY 39
Time guide
3 mins

Write down ONE reason why you think somebody in your workteam should be given a warning rather than be dismissed for failing to comply with company rules.

* _____

_____

_____

_____

I don't know what jobs the members of your section are doing, but it is possible to give some suggestions as to when warnings should be given to people in employment generally.

Whether or not a member of your section will receive an oral warning will depend upon how serious the breach of company rules is considered to be.

Generally if the offence is not felt to be very serious or perhaps it's the first time it has happened, then a warning is more likely than dismissal.

For example:

* when someone persists in being slightly late

* when someone takes longer breaks than they should

* when someone fails to take proper safety precautions for the first time and no harm is caused

You may be called upon to give a member of your section an oral warning when there has been a minor infringement of company rules. What is such a warning meant to try and achieve?

Look at these two examples.

ACTIVITY 40
Time guide
5 mins

1 One supervisor tackles a member of his workteam on the shopfloor about a breach of company rules. The rest of the workteam are within earshot. He criticises his performance generally from the time he joined the company and says if he doesn't improve he'll be in worse trouble.

2 Another supervisor sees a member of his workteam in private, tells him in no uncertain terms the seriousness of what he's done and then discusses how his performance can be improved in future. They agree to meet again in a couple of weeks to see what progress has been made and part on fairly friendly terms.

What do you think each supervisor is trying to achieve?

* _____

_____

* _____

_____

The first supervisor is probably trying to shame the member of his workteam so that he doesn't offend again and is making sure that the rest of the workteam know about it.

However, he has probably damaged his relationship with the whole workteam and hasn't given the man any constructive help to mend his ways.

The second supervisor has given constructive help and, whilst not underestimating the seriousness of what happened, has managed to remain on good terms with the man - partly because he treated the matter in confidence.

3.3 A Hearing

Failure to follow company rules is a very serious business in that it can result in dismissal. So, before your employer takes action against a member of your workteam for not following company rules they should be given an opportunity to state their case at some sort of hearing.

A hearing will try to discover:

* whether or not the rules were in fact broken

* whether or not there was good reason for breaking them - such as when an employee is late because of having a medical problem.

As supervisor your presence at such a hearing may well be required if it is a member of your section who is being afforded the opportunity of a hearing.

Sometimes, however, the decision to dismiss somebody has to be taken immediately.

3.4 Instant Dismissal

How many warnings a person receives will depend upon the company rule book. But can a person ever be dismissed without any warning at all?

ACTIVITY 41
Time guide
1 min

Can you fill in the missing word?

A person can be dismissed instantly without receiving any warning at all where there has been a very _____ breach of the company rules.

Where there has been a serious breach of company rules there can be an instant dismissal.

ACTIVITY 42
Time guide
2 mins

Jot down two circumstances in which you think a member of your section could be instantly dismissed.

* _____

* _____

What you have thought of may well differ from my examples, but typically, employees can be instantly dismissed:

* where it is alleged that they have been fighting on company premises

* where it is alleged that they have stolen company property

* where it is alleged they have destroyed valuable company property

* where it is alleged they have defrauded the company - such as clocking someone else on

3.5 A dismissal based on an unfair decision

When a person is dismissed it ought to be on the basis that there was good reason for it. If there wasn't a good reason for it then the dismissal is unfair. This can only be decided by looking at the facts of each case when it arises.

If somebody feels their dismissal was unfair they may go to an Industrial Tribunal who will have to decide whether the dismissal was fair or unfair.

The Tribunal looks at each case separately to determine whether the grounds for dismissal were reasonable. These grounds can be:

capability - the employer says you're just not capable of doing the job

qualifications - you haven't got the qualifications you said you had

redundancy - you're no longer needed

misconduct - you've done something so wrong in the employer's eyes that he doesn't wish to continue to employ you

How would you judge 'reasonableness' in these case incidents?

ACTIVITY 43
Time guide
10 mins

Respond to the case incidents which follow and write reasonable or unreasonable in the space provided.

1) Capability

Mr Green was employed for 25 years as a machine operator during which time he had received no complaints about poor workmanship, nor had there been any other complaints of any kind made against him. He was given an important job to do by his supervisor which he did badly. As a consequence sixty pounds worth of work had to be scrapped. Mr. Green was dismissed.

2) Qualifications

Mrs Black filled in an application form for a job as a factory manager. On the part of the form that asked for the applicant's qualifications she wrote down two management qualifications. Mrs Black was interviewed and offered the job. After having done the job very well for three months the personnel officer discovered that she did not have any qualifications at all. Mrs Black was dismissed.

3) Redundancy

Mr Brown had worked as a supervisor for 15 years. During that time, he had done a good job, but he had never been liked by his boss. The reason for this was that Mr Brown was a very experienced supervisor and this had always posed a threat to his boss who lacked the necessary ability to do the job he was doing. Although it had always been the custom that when redundancies were to occur it was to be on a last in first out basis or on the grounds of inefficiency, Mr. Brown was selected for redundancy even though there were at least twenty supervisors doing the same job who had been appointed after him, and he was very good at his job.

4) Mrs. White had been employed for three years as a machine operator in a local factory, where she worked from 7 a.m. to 3.30 p.m. each day. She was told that unless she wanted to be made redundant she must work at another factory owned by her employer twenty miles away. Mrs. White liked working in the local factory because it was near her home and the hours were convenient for her, since she could be at home when her children came in from school. Mrs. White refused the offer of the job twenty miles away and even though her contract of employment didn't say that she might be expected to move to another factory that distance away at some time in the future, she was made redundant.

5) Misconduct

Mr Smith, who worked as a delivery driver for a large engineering firm, was told by his supervisor to be more careful in loading his lorry since he was damaging the items he was loading. Mr Smith swore at his supervisor and then jumped down from his lorry and hit his supervisor in the face. Mr. Smith was dismissed. The dismissal was fair.

---

1 This statement is unreasonable. Mr. Green had never had any complaints made against him in the past and it was clear that his work was thought to be up to standard since he was given an important job to do. We can all have our bad days!

2 Mrs Black lied about her qualifications. This is a very serious business. It doesn't matter that Mrs Black was capable of doing the job, the fact remains she did not possess the qualifications that she said she did, so this statement is reasaonable.

3 This statement is unreasonable. Mr Brown had been dismissed even though he was far from being last in, and even though he was good at his job. It would be easy for him to prove that he wasn't the last in, but much more difficult for him to prove that he ought not to have been made redundant on the grounds of inefficiency.

4 It is only natural that Mrs White would not want to work in another factory where she would obviously find it difficult to be able to get home in time for her children. Had she known that she might be expected to do this at some time in the future, she would most probably not have taken the job, so this statement is unreasonable. The point is that it is unreasonable to expect anyone to work somewhere else when having to do so would be so inconvenient, and where it wasn't in any case envisaged as ever being a possibility since it wasn't referred to in a contract of employment.

5 Mr Smith has been dismissed not only for swearing at his supervisor but for attacking him. Such behaviour amounts to serious misconduct and he ought to have realised that he wouldn't be allowed to get away with it, so this statement is reasonable.

3.6 Inadmissable reasons for dismissal

There are cases, where some dismissals are considered in law to be automatically unfair. Here there would be no need to look into whether or not an employer made the right decision - just making the decision is enough to make the dismissal unfair. These cases can be identified as being concerned with such things as dismissal on the grounds of:

* sex

* race

* maternity

Sex and race

Where a member of your workteam has been dismissed simply because they happen to be of a certain sex, or race, then the dismissal will be unfair without question.

ACTIVITY 44
Time guide
4 mins

Respond to the case incidents which follow by writing admissable or inadmissable in the space provided.

1) Mrs Smith and four female colleagues were dismissed on the grounds that it was too expensive to provide washroom facilities for five women out of a total number of forty full time staff.

_____

2) Mr Green worked for ten years as a machine operator, had done his job well and had never had any complaints from his supervisors. When a supervisor's job become vacant Mr Green who was non-white, applied for it thinking that he was in with a chance - but he was never even given an interview. He went to see his manager just before the end of his dinner break and was told that he was just not supervisor material. He wanted to know exactly why not but was told to get back to work as his lunch break was now over. He asked for another appointment and was told that he couldn't have one as there was nothing to discuss. When he protested at this he was told that he was dismissed for refusing to obey an order to work.

_____

---

1) Although it may well have been expensive to maintain washroom facilities for the women employees the fact is that they should be provided, and dismissing people to avoid having to do this would amount to an inadmissable reason for dimissal.

2) When we look at this case incident we can ask ourselves:

* what would normally happen where someone was known to be good at their job and had never had any complaints made against them by a supervisor? They would at least be interviewed for a supervisor's job - Mr. Green was not.

* what would normally happen if someone was unhappy about the way they had been treated at work - they would at least be given an opportunity in the firm's time to express their dissatisfaction to someone in authority - Mr. Green was not.

It does look therefore on the face of it, that Mr. Green's dismissal was because of his race and this is an inadmissable reason for dismissal.

Maternity

Where a pregnant employee is perfectly capable of doing her job, but she is dismissed because she happens to be pregnant, then the dismissal will be unfair without question.

4 Constructive Dismissal

This is a special term which requires very careful thought. So let's see what this is all about.

4.1 How a dismissal may arise without there being a dismissal

It may sound nonsensical to say that there can be a dismissal without a person having to be told that they are dismissed, but there are circumstances in which this can happen. That is where a person leaves their job because it has been made difficult for them to work there and they are 'forced' to leave.

In law when this happens it is considered to amount to unfair dismissal. But the only way in which we can decide whether or not this type of unfair dismissal has occurred is to look closely at each case where it has been said to have happened and try to establish whether or not it really has.

ACTIVITY 45
Time guide
3 mins

Respond to the case incidents which follow by writing TRUE or FALSE in the space provided.

1) Mr. White had worked as a night shift supervisor for fifteen years and was put on the day shift. He tried it for a week and couldn't adapt so he handed in his notice. This was a case of unfair dismissal.

_____

2) Mr. Smith, who had worked as a machine operator for two months in his present section, was told that he was to be moved to another section in line with the company's policy of moving non supervisors at two monthly intervals in order to give them a change of surroundings. The company did this because they felt that it was good for people to have a change. He so much disliked the idea of having to move from a section where he was happy that he handed in his notice. He was really unfairly dismissed.

_____

---

1) Expecting someone to work the day shift after having worked a night shift for fifteen years is not very reasonable. It is quite natural that such a change would be very difficult to adapt to, so much so, that it could quite easily cause someone to give in their notice,so this statement is true.

2) Expecting someone to move sections as part of the company's policy of moving non-supervisors on a regular basis in order to give them a change, was not unreasonable, so this statement is false. It may well be that someone may be working in a section that they like, but it is bound to be the case that they will find some sections bad and some good - it would be the same for anyone.

4.2 The legal consequences of unfair dismissal

When a person has been dismissed they may feel that their dismissal was unfair but what they decide to do about this is very much up to them. This is a civil matter and as such, there is the freedom to choose whether or not to seek legal redress.

So, what happens if a person does decide to seek legal redress? Where would they go to get it and what would they be entitled to? Let us look first of all then at where legal redress can be sought - at an Industrial Tribunal.

4.3 Industrial Tribunals

These are independent bodies created to hear cases about unfair dismissal, amongst other things. Sitting on the tribunal are three people. In the 'chair' is a lawyer, on one side there will be representative from the employer's organisation and on the other, someone from the trade unions. After hearing the evidence they will make a decision.

The hearing is meant to be quite informal and as relaxed as possible with both sides presenting their cases. There is the opportunity to call witnesses and for both sides to ask questions.

As a supervisor, you may well be called as a witness for your employer where a member of your section has been dismissed, in order to show why the dismissal happened. After all, it's very likely that you know the reason only too well especially if it has been you who has had no choice but to report someone and this has resulted in a dismissal.

Giving evidence at an industrial tribunal can be a nerve-wracking business since it means speaking in public and having to answer questions. But if you are called upon to do this, you should have nothing to fear because everything is quite informal, and the chairperson will be very helpful.

4.4 The redress available

At the end of a tribunal hearing a decision will be made. If the claim is successful there will be one of three options open to the tribunal members:

* re-instatement - the person is awarded their job back

* re-engagement - the person is offered another job within the company

* compensation - the person is given financial compensation for loss of earnings

SELF CHECK 4
Time guide
4 mins

Respond by completing each sentence with a suitable word or words.

(1) Where a person has been dismissed for stealing company property the dismissal would be for _____ .

(2) A person can be made redundant where the employer's business has _____ .

(3) A dismissal may be considered to be unfair where the person concerned has not been given a proper _____ .

(4) If a person is dismissed because they are not up to the job they are meant to be doing the dismissal would be on the grounds of _____ .

The answers to this self check are here in the following words, so you'll need to check out your answers carefully. 1) Misconduct Where someone has been guilty of serious misconduct at work, such as stealing company property this can justify instant dismissal; 2) Diminished or ceased to exist; 3) Hearing/warning This would apply in cases where instant dismissal was not appropriate; 4) Capability - one of the four grounds an Industrial Tribunal would look at to determine whether dismissal was fair.

5. Summary

Circumstances for dismissal: capability
qualifications
redundancy
misconduct.

An employer must show he acted reasonably in cases of dismissal.

This includes:

* making sure employees know the conditions under which they can be dismissed

* warning employees who do something which may lead to dismissal

* giving such employees a fair hearing.

BUT

Employees can be dismissed instantly for a serious breach of company rules e.g. fighting
theft
fraud.

Inadmissible reasons for dismissal: sex
race
maternity.

Constructive dismissal - Dismissal need not only involve being sacked. If conditions at work are made so difficult that an employee feels forced to leave, he can claim constructive dismissal.

Employees who feel they have been unfairly dismissed can appeal to an Industrial Tribunal for: reinstatement
re-engagement
compensation.

PART E PERFORMANCE CHECKS

1 End Check

Time guide 60 mins

You may now review your understanding of the unit as a whole by completing this group of questions. DON'T GUESS THE ANSWERS - if you are not sure, flick back into the unit and check before responding.

If you are still unsure put a question mark against your response.

TRUE/FALSE

Respond to each statement by writing TRUE or FALSE in the space provided.

1 Civil laws are those laws that are enforced by the police. _____

2 Using a machine without a guard when the law says that one must be provided is an example of a criminal act. _____

3 Employers are not responsible for the health and safety of everyone on their premises at all times. _____

4 Using the threat of disciplinary action alone is enough to make people health and safety conscious. _____

5 Probably the most effective way of encouraging people to be health and safety conscious is to give them good health and safety training. _____

6 Once a person has been taken to court for failing to comply with the Health and Safety at Work Act, the reasons why they didn't comply with the Act are not taken into consideration by the court. _____

7 Contracts of employment must be in writing. _____

8 Your employer must provide you with a reference whenever requested by you. _____

COMPLETION

Respond by completing each sentence with a suitable word or words.

9 If you feel you have been unfairly dismissed you can take your case to an _____.

10 If a person is forced out of their job by life being made deliberately difficult, this is regarded as _____ dismissal.

11 _____ of the law is no defence.

12 A _____ breach of company rules can result in instant dismissal.

13 Legitimate grounds for dismissal can be _____, _____ and _____.

14 Following a successful claim for unfair dismissal, the claimant can be offered _____, _____ or _____.

15 Reinstatement means _____ but re-engagement means _____.

16 In law dismissal because of _____, _____ or _____ would automatically be considered unfair.

MULTIPLE CHOICE

Respond to each question by putting a tick against the ONE answer which is most correct.

17 An example of a criminal act is:

a) using a machine without a guard when the law says that it must have one

b) failing to give proper notice under a contract of employment

c) purposely giving an employee such unpleasant work so that they are forced to leave their job

18 An example of a civil act is:

a) failing to wear safety clothing in a job where such clothing is necessary

b) stealing the firm's property

c) failing to give proper notice under a contract of employment

d) driving a car in excess of 30 miles per hour in a 30 miles an hour area

19 Where there has been a very minor infringement of the company's health and safety rules by someone who has never broken them before that person should be:

a) transferred to another department

b) given a verbal warning

c) given a written warning

d) dismissed

20 Probably the best way of finding out what your health and safety responsibilities are is to:

a) look at the company rule book

b) look at safety committee minutes

c) look at trade union material prepared on your health and safety responsibilities

d) consult regularly with the safety officer

21 An example of an implied obligation on the part of an employer would be

a) to provide details as to holiday entitlements

b) to provide details as to sick pay arrangements

c) to provide a reference that is not misleading

d) to provide equal pay and other conditions

22 An example of a statutory right on the part of an employee would be:

a) the right to receive equal pay and other conditions

b) the right to be given a reference that is not misleading

c) the right to be provided with details as to sick pay arrangements

d) the right to be provided with details as to holiday entitlements

23 A situation where someone should perhaps be given a warning rather than be dismissed would be where they:

a) had physically attacked their supervisor

b) had been discovered stealing company property

c) had been late on one occasion for work

d) had been drunk in charge of a very dangerous machine

24 A dismissal would be fair where it took place because an employee was:

a) pregnant even though they were capable of doing their job

b) no longer capable of doing the job

c) selected for redundancy when they can prove that someone else should have been selected before them

END CHECK - Checkout

Audio Tape Side 2 Time guide

The answers and explanations for these End Checks are on Side 2 of our Audio Tape. Have your responses with you as you play this tape. As you listen you can check out how well yiu have done and make notes as you proceed.

2 Tutor Check

Time guide 60 mins

Read through this case incident, then deal with the accompanying questions.

The Unit Furniture Company specialises in the production of self assembly furniture kits. It employs some seventy-five people in its northern factory and another one hundred and fifty people in its two other factories in the south.

During the last twelve months the company has been in financial difficulties owing to a considerable drop in demand for their self-assemble kit. If it had not been for the success of their northern factory which produces self assemble garden furniture, then the company might have gone out of business altogether.

It has become necessary therefore to make forty people redundant from the two factories in the south, and move ten people from their factories in the south to the factory in the north. One person who has been asked to move refuses for strong family reasons. The company therefore dismisses her.

The company also decides to do away with the night shift, and place all those staff who worked on the night shift who are not to be made redundant, on the day shift. One person who has worked permanent nights for fifteen years decides to leave rather than do this.

When the workforce realise that there are to be redundancies, staff moves, and changes in shift arrangements, morale drops to an all time low. During the last week a much larger proportion than normal of the workforce in the south are both late for work and less inclined to work normally.

You only need to write ONE or TWO sentences against each question.

1 What must the company do in order to make sure that the redundancies are fair?

2 Does the person who has been dismissed for refusing to accept a move to another factory in the north have any rights in law?

3 Does the person who has left his job because he doesn't want to to work on the day shift have any rights in law?

Send to tutor

Now get your answers to your study tutor either by post of handing it over personally. You will receive your tutor's assessment and comment back through the post as soon as can be managed.

3 Work-based Project

Time guide 60 mins

Earlier in this unit when we considered contracts of employment, we referred to a supervisor's basic employment particulars being different from those of the members of his section.

Discover exactly what your basic employment particulars are, and briefly indicate in writing how they differ from that of any particular member of your section.

Send to tutor

Now get your answers to your study tutor either by post of handing it over personally. You will receive your tutor's assessment and comment back through the post as soon as can be managed.

PART F UNIT REVIEW

1 Return to Objectives

Having completed your work on this unit let's review how you feel about each of our opening objectives. I'll repeat them here and add comment.

You should be better able to:

* **UNDERSTAND WHAT LAWS ARE AND HOW THEY CAN BE CLASSIFIED INTO CIVIL AND CRIMINAL LAWS**

You should now be quite familiar with what a law is. We defined laws in terms of rules that are laid down by society indicating how we ought to behave. We have seen however, that such rules can be very different in their makeup. Some have as their aim the regularisation of behaviour between individuals who have entered into a particular relationship that may create difficulties. If such difficulties arise individuals can, should they choose, rely upon the application of the civil law to resolve the difficulties. Others on the otherhand are more concerned with ensuring the ultimate protection of society. Laws which define criminal conduct come within this category. Now to our second objective.

You should be better able to:

* **APPRECIATE THOSE AREAS OF LAW WITH WHICH SUPERVISORS ARE INVOLVED**

In the unit we looked in some detail at the operation of the law regarding health and safety at work. I hope as a result of working through the unit you now have a better appreciation of everybody's legal obligation to care for their own and each other's health and safety while at work and of the consequences which can result if this area of the law is neglected.

We've also looked at the nature of a contract of employment. Whenever people become employer and employee respectively they commit themselves to carrying out certain obligations towards each other. Exactly what those commitments are will vary from one job to another and will depend on precisely what has been agreed between them. Many of those obligations one would expect to find on a contract of employment.

But what you may now realise more clearly than before, is that employer and employee may have other obligations which aren't expressly agreed: they can, for example, be implied or be created by an Act of Parliament.

Finally we examined the circumstances in which an employer may or may not discuss an employee and distinguish between fair and unfair dismissal. It's initially important that anybody who is in a position to start disciplinary measures or who is responsible for the behaviour of people while they are at work is clear on the legal implications of actual and constructive dismissal - for the protection of themselves, the people who work for them and the organisation which they represent. And this, of course, means supervisors are in the front line.

I hope that the work you've done was enjoyable and useful enough to encourage you to continue your studies.

2 Extensions

I recommend that you take up as many of these extensions as you can. They will further increase your understanding and interest. You will also be able to check out a number of the ideas that I mention in the Unit. The extra time and effort will prove very worthwhile.

EXTENSION 1

Book: Choice Unit 84: Health and Safety

Author: Matthew S McCall

Publisher: Northern Regional Management Centre

If you want to study the implications for you of the Health and Safety at Work Act 1974 in more detail than is possible in this unit, then you would find it useful to work through Unit 84.

EXTENSION 2

Here is an example of the sort of document you might get when you take up a new post, giving you the basic details you need to know about your terms of employment.

This statement by the YY Trading Company gives particulars of the terms on which the company is employing you, Miss A. Merrill on the date the statement is issued, 30 June 19XX. Your employment began on 1 June 19XX and your employment with your previous employer does not count as part of your continuous period of employment.

You are employed as a Telephonist and will normally be required to work at our Smith Street factory but, you must expect to help out when requested at the Head Office switchboard.

Your pay, exclusive of overtime, is £X a week, paid weekly. Your overtime rate is Yp an hour.

Your daily hours of work are 9 am to 5.30 pm on Monday to Friday. Any work which you are required to do outside your daily hours of work will be paid for at the overtime rate. You are allowed a lunch break of one hour. Your normal work hours, exclusive of lunch breaks, are therefore 37½ a week.

The holiday year begins on 1 April. You are entitled to paid holidays during the year following 1 April at the rate of one day for each four-week period of service which you have completed during the year ending 31 March. Payment will be made for any holidays not taken at the time the employment is terminated.

The date of your holidays must be agreed beforehand by your departmental supervisor. No holiday entitlement may be carried over from one holiday year to another. You are entitled to seven paid holidays each year as follows: New Year's Day, Good Friday, Easter Monday, the last Monday in May, the last Monday in August, Christmas Day and Boxing Day.

A compensatory day's holiday will be allowed when any of these days fall on a Saturday or a Sunday, or on any day as may be substituted by agreement.

Holiday pay, including accrued holiday pay on termination of your employment, will be paid at your currently weekly rate, excluding any bonus or overtime payment. One day's holiday pay will be calculated at one-fifth of your current weekly rate. The Company will continue to pay you at your normal rate of pay, exclusive of overtime, during any unavoidable absence through sickness up to a maximum of eight weeks in any period of 12 months. You are required to furnish a medical certificate in the event of absence through sickness for seven or more consecutive days.

The company does not provide a pension scheme.

You are entitled to receive one week's notice of termination, increasing to two weeks after two years' service. Thereafter, you will be entitled to a further week's notice for each additional complete year's service until the completion of your twelfth year. Your period of notice will then be 12 weeks after 12 or more years' service.

EXTENSION 3

Video: Handling Reduncancy and Dismissal

Publisher: Bushey Studios
Melbourne Road
Bushey
Herts

A famous lawyer and a group of trained actors present the law on dismissal in a very entertaining and readily understandable way.

EXTENSION 4

A Code of Practice is basically a set of guidelines detailing how people ought to behave in certain circumstances. They are issued by very responsible bodies who are given the legal power to create them by Parliament.

The Advisory Conciliation and Arbitration Service (ACAS) has published a Code of Practice on disciplinary rules and disciplinary procedures. The Code sets out the behaviours required of a reasonable employer. It is not illegal for an employer to fail to observe the Code, but if it is not observed it may be very difficult to defend an unfair dismissal claim.

Employers then should draw up disciplinary rules, making sure that their employees know what the rules say. This can be done by explaining the rules to them orally, or by referring to them in the written particulars.

The Code of Practice tells employers that: "When drawing up rules the aim should be to specify clearly and concisely those necessary for the efficient and safe performance of work and for the maintenance of satisfactory relations within the workforce and between employees and management.

Rules should not be so general as to be meaningless.

Rules should be readily available and management should make every effort to ensure that employees know and understand them. This may be best achieved by giving every employee a copy of the rules and by explaining them orally. In the case of new employees this should form part of an induction programme.

Employees should be made aware of the likely consequences of breaking rules and in particular they should be given a clear indication of the type of conduct which may warrant instant dismissal.

These extension opportunities can all be taken up via your Support Centre.

They will either have the materials or will arrange that you have access to the materials. However it may be more convenient to check out the materials with your Personnel or Training people at work - they may well give you access. There are other good reasons for approaching your own people, for example they will become aware of your interest and you can involve then in your development.

3 References

REFERENCE 1 Book: Selwyn's Law of Health and Safety at Work

Author: Norman Selwyn

Publisher: Butterworths

REFERENCE 2 Book: Modern Employment Law

Author: Michael Whincup

Publisher: Heinemann

These references can all be taken up via your Resource Centre. They will either have the materials or will arrange that you have access to the materials. However it may be more convenient to check out the materials with your Personnel or Training people at work - they may well give you access. There are other good reasons for approaching your own people, for example they will become aware of your interest and you can involve them in your development.

If you do wish to make use of these references then don't think that you must read then right through. Just dip into them for a slightly wider treatment of the topic raised by the unit.

I should warn that the language and style of the writing is often difficult to cope with. So don't struggle with it too much. Do what I when in difficulty, put the book back on the shelf and find a better one!

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